

Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023

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Every Queensland
community deserves
to be a liveable one

3 October 2023

Mr Chris Whiting MP
Chair
State Development and Regional Industries Committee
Member for Bancroft

Via email: SDRIC@parliament.qld.gov.au

Dear Chair,

RE: LGAQ Submission to the Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023

The Local Government Association of Queensland (LGAQ) is a not-for-profit association representing all 77 local governments' across Queensland as the state-wide peak body for our sector.

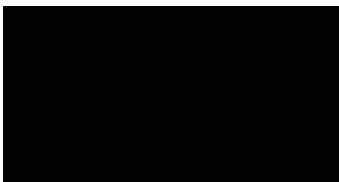
We sincerely thank the State Development and Regional Industries Committee (the Committee) for undertaking this Inquiry into the Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023, which is very important for the local government sector.

Please find **enclosed** a copy of the LGAQ's submission for your consideration, on behalf of our members. As outlined in the submission, individual councils and councillors were also encouraged to lodge their own submissions as well.

We would be more than pleased to speak to the Committee at any scheduled public hearings.

For further information in relation to this submission, please contact Mr Nathan Ruhle, Manager – Intergovernmental Relations on [REDACTED]

Yours sincerely,



Alison Smith
CHIEF EXECUTIVE OFFICER



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Submission to Queensland Parliament State
Development and Regional Industries Committee

3 October 2023

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About the Local Government Association of Queensland (LGAQ)

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association established solely to serve councils and their needs. The LGAQ has been advising, supporting, and representing local councils since 1896, enabling them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and providing them with the means to achieve community, professional and political excellence.

Partners in Government Partners-in-Government

The LGAQ on behalf of all 77 Queensland local governments is a signatory to a three-year partners-in-government-agreement with the State of Queensland.

The Agreement details the key principles underlying the relationship between the state and local governments and establishes the foundation for effective negotiation and engagement between both levels of government.

The agreement acknowledges that local government is the closest level of government to the community, affecting the lives of everyday Queenslanders and acknowledging Local Government as a genuine partner in the Australian government system.

The intent of the agreement was to continue the tradition of working in genuine partnership to improve the quality of life for all Queenslanders to enjoy. By identifying the roles and responsibilities of each party, it provides a solid foundation for effective negotiation and engagement between both levels of government.

The LGAQ is committed to working with the Queensland Government and will continue to be a passionate advocate for councils, to serve our joint jurisdiction for the people of Queensland.

Rural and Remote Councils Compact

The Rural and Remote Councils Compact¹ signed on 25 June 2021, complements the existing Partnership in Partners-in-Government agreement in place between the LGAQ and the Queensland Government to provide a platform to ensure issues of priority for these communities are properly considered by the Government when developing policies, programs, and legislation.

The Rural and Remote Councils Compact, pledges to amplify the voice of and improve outcomes for the state's 45 rural and remote councils and their local communities by enhancing engagement between both levels of government.

¹ <https://knowledgebaseassets.blob.core.windows.net/images/9c61cdc2-3cfa-eb11-94ef-002248181740/Rural%20and%20Remote%20Councils%20Compact%20-%20signed%20copy.pdf>

Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023

Executive Summary

The LGAQ welcomes the opportunity to provide feedback to the Queensland Parliament State Development and Regional Industries Committee (the Committee) on the Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023 (the Bill).

In doing so, we sincerely thank the State Government for introducing these changes and understanding the need to recalibrate the councillor conduct framework.

The LGAQ agrees with the Deputy Premier's comments in his explanatory speech that, "we owe it to Queenslanders to make sure all our processes are fair and reasonable, especially when it comes to elected officials."

As we said in our submission to the Parliamentary Inquiry into the functions of the Independent Assessor and performance of those functions (the Inquiry), a robust, independent and efficient councillor conduct regime is critical to the functioning of the local government sector.

For this regime to work, it must strengthen the ability of the local government sector to represent Queensland's local communities. It must not hamper the ability of mayors and councillors to do the job their communities elected them and expect them to do.

Rather than re-iterating any of the concerns or challenges with the current framework, that was highlighted in the LGAQ's submission² to the Inquiry undertaken by this Committee throughout 2022, this submission will focus on the detailed changes outlined in the Bill.

In doing so, we would like to publicly acknowledge the State Government's ongoing consultation in relation to these reforms, which started before the Inquiry was announced in October 2021, through the actual Inquiry and following the report of the Inquiry in October 2022. That included a process of consultation in relation to a draft Bill, undertaken in recent months, as outlined in the explanatory notes.

Our members also appreciate the time taken and the interest of the Committee in undertaking a thorough review of the councillor conduct framework, with regional hearings and focusing on the need to listen to the concerns of councillors, mayors and CEOs across Queensland.

² <https://documents.parliament.qld.gov.au/com/SDRIC-F506/IIA-9981/submissions/00000051.pdf>

Recommendations

The LGAQ has prepared detailed comments in relation to the Bill and has made 11 recommendations, summarised below:

- **Recommendation 1:** The LGAQ acknowledges the addition of this provision and recognition of the impact of Aboriginal lore and traditional customs on First Nations Australians but recommends strengthening it further by including making the reference something that ‘must’ be considered by the OIA, rather than something that ‘may’ be of relevance. Cultural obligations of First Nations representatives are not something they opt in and out of.
- **Recommendation 2:** the LGAQ recommends that the reporting obligations outlined in clause 86 are extended to include anonymous complaints, unless the Committee agree to the LGAQ’s recommendation (10) in this submission on how to deal with anonymous complaints.
- **Recommendation 3:** The LGAQ recommends a further review of the councillor conduct system in the next Parliamentary term. This is in addition to regular and ongoing oversight by the Parliamentary Committee.
- **Recommendation 4:** The LGAQ recommends amending clause 43, to allow an opportunity for mitigating circumstances where a reasonable excuse can be justified.
- **Recommendation 5:** The LGAQ recommends that this provision is either removed or significantly restricted. If it is included, it should be under an exceptional circumstances test – as opposed to a public interest test.
- **Recommendation 6:** The LGAQ recommends that this provision is altered to broaden the scope of the advice available as trusted sources.
- **Recommendation 7:** The LGAQ recommends that the exceptional circumstances option outlined in new section 150SD, is specifically defined to ensure that it is a narrow exception, as intended.
- **Recommendation 8:** The LGAQ recommends use of the word “recklessness” instead of the word “negligence” in section 150SD(2)(c)(i) in clause 46.
- **Recommendation 9:** The LGAQ recommends publication of a councillor’s name, only if the conduct breach has been substantiated by a majority decision by the local government.
- **Recommendation 10:** The LGAQ recommends changing the assessment of anonymous complaints to ensure that the OIA only receives complaints from someone who is known to them.
- **Recommendation 11:** The LGAQ recommends that this provision is amended to refer unsuitable meeting conduct matters relating to the mayor back to the OIA to enable a genuine independent process.

Introduction

Councillors are elected to serve their community. They put their hand up to serve because they love where they live, and they want to make a difference.

Many councillors in Queensland are part-time. Serving as an elected local government representative is something they do because they want to, not because they have to. They put their hand up to serve because they are connected to their communities, often serving on various local volunteer groups and they have strong local knowledge and specific expertise. Being part-time also means they have jobs outside of their official duty as an elected representative.

The integrity agencies established to ensure the sector is open and transparent were designed to prevent misconduct and corruption. They were not designed to make things harder for the majority of elected members who seek to do the right thing. If balance is not restored to the councillor conduct system, then good people will continue to be lost from local government and Queensland's local communities will be the poorer for it.

Confidence in the system was at an all time low. Over-zealous integrity agencies, who are more focused on generating complaints than improving conduct, deter good people from putting their hand up from representing their communities.

A survey of members taken by the LGAQ before the March 2020 quadrennial local government elections illustrates this risk. Both councillors and CEOs indicated the integrity reforms were having a negative impact on their confidence levels and on their capacity to effectively do their job. Further, of those elected members who indicated they were not likely to stand for re-election, 59 per cent stated their decision was strongly impacted by the integrity reforms. When asked directly about the Office of the Independent Assessor, just two in five believed the OIA was efficient and gave them a fair go. One in three did not agree the OIA was open and accountable, nor did they agree the OIA was good at resolving issues. And things went downhill further after the 2020 local government elections, prior to the commencement of the Inquiry in late 2021.

As the LGAQ's policy statement illustrates, the Association – and indeed the sector it represents – believes the system of local government should be accountable, democratic, efficient, sustainable and transparent, and that local governments have a responsibility to comply with standards relating to applicable governance arrangements.³

The establishment of the Inquiry in 2021, the manner in which the Inquiry was conducted – in a bipartisan and collaborative way, and the ongoing intent of the State Government has given many elected local government representatives a light at the end of a tunnel – some hope that the system will be recalibrated to what it should be, not what it had become.

The most fundamental check and balance in our democracy is the regular conduct of free and fair elections, occurring every four years in the case of Queensland's local government sector. That is when the conduct of elected representatives is judged by their community.

³ <https://www.lgaq.asn.au/downloads/file/531/2022-lgaq-policy-statement>

On that point, we would like to reiterate a long-standing position of our members that we noted in our submission to the Inquiry and as far back when the initial Bill was introduced in 2018 and that is for inappropriate conduct complaints not to be referred to the council, as this was a significant departure from the previous regime which required the mayor (not the council) to deal with allegations of inappropriate conduct.

The LGAQ appreciates the efforts made by the Committee in undertaking regional hearings, ensuring they get direct feedback from the local government coal face. We particularly acknowledge the leadership of the Chair and Deputy Chair of the Committee and thank them for attending our 2022 Annual Conference to provide an overview of the Inquiry and its findings. Thank you to all the members of the Committee for their interest in this important issue. We especially thank the Committee for holding its final hearings in Gladstone on 16 October to coincide with the LGAQ Annual Conference where councils from across the state will be in attendance and can thus participate and/or observe.

Finally, we thank the Deputy Premier and Minister for Local Government, Hon. Steven Miles MP, for the ongoing discussions we have had on this issue and we sincerely acknowledge the responsiveness of his department throughout various consultation processes.

The LGAQ provides this submission after considerable feedback from our members, our Policy Executive and from motions endorsed by our Annual Conference. We also understand that individual local government representatives may lodge their own submissions.

Submission

As outlined above, the LGAQ was provided an opportunity to comment on draft legislation, which we sincerely appreciate. Many of the feedback provided in this submission has been provided through that process as well.

These reforms are of great interest and concern to our members and for some of them, may be the difference between deciding whether to re-contest the 2024 local government elections due to the considerable angst and frustration with the threshold of complaints and the manner in which the OIA has conducted its operations in recent years – particularly prior to the establishment of the Parliamentary Inquiry in late 2021.

For ease of reference, we will provide feedback on the Bill under three parts – PART A – what we support, and PART B – feedback for consideration of the Committee and PART C – other issues.

PART A – what we support

Changes to jurisdiction

The LGAQ welcomes the changes in relation to the treatment of complaints against former councillors.

We also strongly welcome the insertion of new 'Division 3A – Preliminary assessment', including a statute of limitations that a complaint, notice or information about the conduct of a councillor must be made or given to the assessor—

- (a) within 1 year after the conduct occurred; or
- (b) within 6 months after the conduct comes to the knowledge of the person who made the complaint or gave the information or notice, but within 2 years after the conduct occurred.

This is an important reform that was recommended by the Inquiry (recommendation 1).

The Association acknowledges and welcomes changes that ensure that an allegation relating to the private conduct of an elected representative is not captured by the code of conduct. One thing that is important to clarify as part of this process is for a clear definition of what is considered public and private conduct. Without a clear definition, this will be particularly challenging, considering the number of part-time councillors and mayors that are elected and the way in which the community engages with their elected local government representatives.

Assessment process

The LGAQ acknowledges the proposed changes in relation to establishing a statutory assessment process, to raise the threshold of matters which are progressed beyond the initial assessment phase, once a complaint is received by the OIA.

This addresses a key concern by many of our members in relation to the time taken for matters to be dealt with and the need to put a clear public interest test up-front, as part of the initial process of triaging complaints.

Vexatious complaints

The LGAQ strongly appreciates the changes to include a vexatious complainant declaration process, which strengthens the councillor conduct complaints framework to ensure it is not politically weaponised. This change is in line with our submission to the Parliamentary Inquiry.

Ensuring the councillor conduct system doesn't become a political weapon against individuals is critical in maintaining the confidence of the sector and the integrity of the role of the OIA and CCT.

Inappropriate conduct process

The LGAQ acknowledges the proposal to publish an executive summary of an investigation report of an inappropriate conduct complaint in the agenda papers of a council meeting. Noting this was a recommendation from the Parliamentary Inquiry (recommendation 19), the LGAQ respects the need to maintain some level of confidentiality to encourage complaints to be lodged, as well as some natural justice for the subject councillor.

Conduct decisions

As noted in the explanatory notes, under the *Local Government Act 2009* section 150DX (Local governments to keep and publish register), a local government must keep an up-to-date register about certain councillor conduct matters and publish the register on the local government's website. The register must include, among other things, specific details about a decision by the IA to take no further action in relation to councillor conduct (refer current section 150DY) and specific particulars for each councillor conduct complaint dismissed by the IA (refer current section 150DZ).

The Inquiry recommended, 'that the *Local Government Act 2009* be amended to remove the requirement to record in councillor conduct registers matters that have been dismissed or deemed to require no further action by the Office of the Independent Assessor or Councillor Conduct Tribunal.'

The LGAQ strongly supports the changes in the Bill that remove requirements for certain details to be published in a local government's councillor conduct register. It made no sense to require councils to record decisions that were either dismissed or deemed to require no further action.

Conflicts of Interest

The LGAQ acknowledges the work that was undertaken in 2021 in clarifying existing COI provisions in the Act. That work included feedback from the experiences of 28 local governments who raised the need to clarify existing provisions and exemptions in the legislation.

Furthermore, the LGAQ specifically acknowledges the legislative recognition of the challenges faced by First Nations elected representatives, who have traditional family and cultural obligations in addition to those recognised by our laws. This issue was strongly supported as a member-endorsed resolution at the 2021 and 2022 LGAQ Annual Conferences and was one

of the most pressing issues raised at our recent Indigenous Leaders Forum in Cairns in June this year.

Previously, there was no specific recognition of Aboriginal lore and traditional customs of First Nations Australians in this definition of the legislation. We request that this can be provided and included in the draft bill. Aboriginal lore was laid down in the Dreaming – the expression of Aboriginal creation, which gave meaning to everything and affects the relationships people have with their environment, each other and their totems. In nearly all Aboriginal societies, the importance of sibling relationships extends across generations. Kinship rights and obligations apply to land ownership, rights and roles, and also regulate social relationships.

It is important to recognise the diverse range of Aboriginal peoples throughout Australia and that each language group has its own unique spirituality, beliefs and lore.

The LGAQ believes that expressly outlining a statutory consideration of Aboriginal lore and traditional customs of First Nations Australians will make the legislation far more workable and practical for Queensland's First Nations communities and the elected local government representatives they have chosen to support them. It also coincides with the Path to Treaty reforms and provides an opportunity to cultivate a new relationship with First Nations peoples, sharing in more than 65,000 years of rich history and culture.

- **Recommendation 1:** The LGAQ acknowledges the addition of this provision and recognition of the impact of Aboriginal lore and traditional customs on First Nations Australians but recommends strengthening it further by including making the reference something that 'must' be considered by the OIA, rather than something that 'may' be of relevance. Cultural obligations of First Nations representatives are not something they opt in and out of.

Reporting

In our submission to the Inquiry, the LGAQ highlighted the need for increased accountability and transparency of the OIA, including a more consistent annual reporting process. Further to the list outlined in the Bill, the LGAQ would also recommend the following additions of matters in the OIA annual report (clause 86):

- The number of anonymous complaints received by the IA
- The number of anonymous complaints dismissed by the IA
- The number of anonymous complaints that are deemed inappropriate conduct (conduct breach) and referred to council for investigation
- The number of anonymous complaints that are investigated by the IA
- The number of anonymous complaints that proceed to the CCT

Of course, if our previous comments in relation to anonymous complaints to the OIA are supported and adopted in the Bill, then the above would be mostly redundant.

- **Recommendation 2:** the LGAQ recommends that the reporting obligations outlined in clause 86 are extended to include anonymous complaints, unless the Committee agree to the LGAQ's recommendation (10) in this submission on how to deal with anonymous complaints.

General feedback

The LGAQ supports the renaming of inappropriate conduct to conduct breach. We were consulted on this name change.

The transitional provisions in the Bill are acknowledged and should assist in resolving existing matters during this local government term.

Noting that the Bill will commence on assent, and the significant number of changes being made through this process, a review of the system should occur in the next Parliamentary term to ensure the proposed changes achieve the desired objectives. Past experience in 2020-2021 shows how quickly confidence was lost when over-zealous integrity agencies became more focused on generating complaints than improving conduct.

While there is no suggestion of another widespread Inquiry or full-scale review, the changes being proposed are significant and of importance to confidence in the local government sector. We therefore seek a review after the first 12 months to ensure that the reforms are effective and generating improved outcomes in order to deliver on the legislative intent.

- **Recommendation 3:** The LGAQ recommends a further review of the councillor conduct system in the next Parliamentary term. This is in addition to regular and ongoing oversight by the Parliamentary Committee.

PART B – feedback for consideration of the Committee

Changes to jurisdiction

Whilst the removal of “a breach of trust placed in the councillor” from section 150L(1)(b)(i) is an overwhelmingly positive step, the additional removal of “either knowingly or recklessly” is not as positive. As presently proposed it will be misconduct if a councillor fails to comply with a statutory obligation. The new definition is proposing strict liability.

This provision ought to have something to allow for mitigating circumstances, such as “unless the non-compliance was not done knowingly or recklessly and there is a reasonable excuse for the non-compliance”. Alternatively, “(i) a knowing or reckless non-compliance with a provision of an Act without reasonable excuse”.

As presently proposed, this will not allow the CCT any option to take into consideration broader circumstances (that previously did not sway the OIA to exercise its discretion to dismiss the complaint, but did sway the CCT).

- **Recommendation 4:** The LGAQ recommends amending clause 43, to allow an opportunity for mitigating circumstances where a reasonable excuse can be justified.

Assessment process

The LGAQ does not support providing an opportunity for the OIA to have unqualified ability to undertake own-sourced assessments without a complaint having been received (s150SF). Experience has shown that this provision has not been used appropriately in the past and was in fact a power that was removed in 2021. If an investigation into a complaint determines that more than one councillor may have been involved, it makes sense to extend the investigation

without a complaint. That is a very different proposition to media reporting of an incident. Trawling through council minutes or morning media clippings should not be a daily business practice of the OIA.

- **Recommendation 5:** The LGAQ recommends that this provision is either removed or significantly restricted. If it is included, it should be under an exceptional circumstances test – as opposed to a public interest test.

In relation to a councillor complying with advice from the department in good faith, the provision in the Bill is very narrow and only pertains to departmental guidelines – which is a static document (s150SD). While the LGAQ strongly agrees with the intent of this provision, we do not believe the drafting will achieve the desired outcomes. Instead, we would recommend broadening this option out to include a range of trusted sources, including specific information about a specific issue provided by the Department, the LGAQ governance team, the LGMA governance adviser and also legal advice. To achieve this, perhaps new s150SD(3) that relates to matters in which the IA ‘may’ dismiss a matter, could be expanded.

- **Recommendation 6:** The LGAQ recommends that this provision is altered to broaden the scope of the advice available as trusted sources.

The new s150SD relating to matters in which the IA ‘must’ dismiss a complaint includes:

- (1) The assessor must make a preliminary assessment of the complaint, notice or information.
- (2) On the completion of the preliminary assessment, the assessor must dismiss the complaint or decide to take no further action for the notice or information if the assessor is satisfied that—
 - (a) dealing with the complaint, notice or information would not be in the public interest; or
 - (b) the complaint, notice or information was not made or given within the period required under section 150SB, unless—
 - (i) the conduct the subject of the complaint, notice or information is suspected corrupt conduct; or
 - (ii) the complaint, notice or information was not given within the period because of exceptional circumstances ...

The LGAQ considers this provision important, although has concerns around the broad nature of an ‘exceptional circumstances’ exception. This provision should contain further definition to ensure it is a narrow that is used specifically and as intended.

- **Recommendation 7:** The LGAQ recommends that the exceptional circumstances option outlined in new section 150SD, is specifically defined to ensure that it is a narrow exception, as intended.

Finally, clause 46 - 150SD(2)(c)(i), uses the word ‘negligence’, which could invite unnecessary legal arguments.

- **Recommendation 8:** The LGAQ recommends use of the word “recklessness” instead of the word “negligence” in section 150SD(2)(c)(i) in clause 46.

Clause 56, 150AFA(4)(a) requires a summary of an investigation report of suspected conduct breach to include the name of the councillor whose conduct is investigated and for that report to be made publicly available. This is seemingly contradictory, particularly with section 150DY. If the identity of a councillor who is the subject of a suspected conduct breach is revealed prior to a decision being made:

- (a) the damage is often already done; and
- (b) it nullifies the protection of section 150DY (not recording the name of persons who have been found not to have engaged in misconduct or conduct breach).

Clause 57 has the same concern. The sections are inconsistent with the protection of section 150DY (not recording in a register the name of councillors who have been found not to have engaged in misconduct or conduct breach).

- **Recommendation 9:** The LGAQ recommends publication of a councillor's name, only if the conduct breach has been substantiated by a majority decision by the local government.

Vexatious complaints

One challenge that remains is in relation to those who are anonymous and vexatious complainants. It will not be possible to determine that the complainant is vexatious if they remain anonymous. Likewise, under the Bill a person could be twice deemed to be a vexatious complainant but then continue to make as many anonymous complaints as they like.

We reiterate our policy statement that anonymous complaints should be automatically dismissed. This is to ensure the OIA can undertake a rigorous assessment process – which is not possible if the subject of a complaint cannot be properly verified by contacting the complainant. The LGAQ's recommended position on anonymous complaints is not intended to identify the complainant to the person who is the subject of the complaint. There are existing whistleblower mechanisms in place at councils that still enable anonymous complaints to be made and councils to still investigate, while protecting the identity of the complainant. These processes could be utilised as part of the consideration of how anonymous complaints are dealt with and substantiated by the OIA. But this is a loophole for the new 'three strikes' vexatious complainant process whereby someone could be deemed to be a vexatious complainant twice – and then anonymously complain 20 times and no one would know.

- **Recommendation 10:** The LGAQ recommends changing the assessment of anonymous complaints to ensure that the OIA only receives complaints from someone who is known to them.

Unsuitable meeting conduct

The LGAQ holds significant concerns regarding the changes outlined in clause 40 – unsuitable meeting conduct of chairpersons. Mayors are elected at large by the community and consequently are entitled to the role of meeting chair. In circumstances where popularly elected Mayors enter a chamber where there is a majority of political opponents, there is the risk that these provisions could be misused with the Mayor excluded from the meeting by their political opponents. While it is recognised that all councillors must comply with minimum standards of meeting conduct, extending a power to a council to eject a Mayor is considered

too far reaching – ideally, dealing with unsuitable meeting conduct by a chairperson would be best referred to the OIA.

It is unclear why this provision has been included, other than the notes in the explanatory notes stating, “stakeholders have raised concerns that the existing local government framework does not adequately provide for addressing the unsuitable meeting conduct of a chairperson in a local government meeting.” The Committee should note that this proposed amendment was NOT a recommendation from the Inquiry.

- **Recommendation 11:** The LGAQ recommends that this provision is amended to refer unsuitable meeting conduct matters relating to the mayor back to the OIA to enable a genuine independent process.

Levelling the playing field for local government elections

The LGAQ appreciates acknowledgement of the need to address the issue of levelling the playing field for all candidates (sitting councillors and community members) during local government elections.

Another option to level the playing field during elections is to have a code of conduct that applies to candidates. Potentially from the time of their nomination. This could be a reduced version of the Code of Conduct for Councillors comprising, mainly, a modified version of Standard of Behaviour 2 – Treating people in a reasonable, just, respectful and non-discriminatory way. Options to regulate that code could include a State Government appointed person who is simply empowered to administer and publish reprimands for those candidates that breach this Code, in a timely manner.

Feedback received from our members on this issue has been mixed. Some councillors agree with the proposal in the Bill, however others raised concerns that not having the code of conduct apply to them during the election period may cause more harm than good. They would have preferred that all community candidates meet the same code of conduct. Their main concern was that a messy election will just get messier if there are no behavioural standards. There is strong agreement that there should be a level playing field, but some elected representatives do not feel that the approach outlined in the Bill is the right way to achieve that objective.

The adoption of a further and specific code of conduct for community candidates may be a better way of achieving the goal of levelling the playing field.

This is a matter that could be further considered by a further review of the system (recommendation 1 of this submission) and after the experience of the 2024 local government elections.

PART C – other issues

Mandatory training

The LGAQ would appreciate the opportunity of being further consulted on the development of the regulation on mandatory training requirements. We remain concerned about the ability of some elected representatives to attend mandatory training and consequently being

suspended or dismissed. We are somewhat comforted though that there will be discretion around the show cause process.

Publication of notices

This is a welcome change and something that the LGAQ has been advocating for. At the LGAQ 2020 Annual Conference, a resolution was supported by members asking for the State Government to review the requirements imposed on local governments regarding the publishing of notices in newspapers and consider alternatives, including publishing notices online.

Election costs

The LGAQ acknowledges the proposed amendments to section 202 of the *Local Government Electoral Act 2011*, which changes the onus on the current cost recovery provisions from a 'must' to a 'may'.

Moreton Bay Regional Council

On behalf of our member council, the LGAQ thanks and acknowledges the name change of Moreton Bay Regional Council, as requested by the now 'city' council.

Conclusion

Overall, the LGAQ welcomes the changes to overhaul the councillor conduct framework.

We trust these 11 recommendations will improve the operations of the Bill and the policy intent of what is being proposed.

It is important that people have trust in the system of local government. It is also important that there is confidence in the system of how conduct complaints are dealt with, from the community and the local government sector as a whole.

On behalf of the local government sector, we thank the State Government for its focus on this important issue and would be more than happy to speak to our submission at a public hearing.

We also thank the Committee for its consideration of these recommendations and the bipartisan manner in which the Inquiry was conducted. Having four of the six members of the Committee with local government experience has given the sector faith and confidence that the Inquiry process was undertaken with a strong understanding of the challenges that elected representatives face in their role, every day.

Contact Details

Please do not hesitate to contact Nathan Ruhle, Manager – Intergovernmental Relations via email [REDACTED] should you wish to discuss any aspect of this submission.

Appendix

LGAQ Policy Statement

The LGAQ Policy Statement⁴ is a definitive statement of the collective voice of local government in Queensland. The relevant policy positions of local government in the context of governance arrangements and community representation are as follows:

1.6 Governance Arrangements

1.6.1 To ensure the system of local government is accountable, democratic, efficient, sustainable and transparent, local governments have a responsibility to comply with appropriate standards relating to applicable governance arrangements. This includes boundaries, electoral arrangements, financial accountability and reporting, integrity and ethical standards, and oversight by independent bodies including the Queensland Audit Office, Integrity Commissioner, Ombudsman, Remuneration and Discipline Tribunal, and the Crime and Corruption Commission.

1.6.2 The governance arrangements that apply to local government should, where appropriate, be consistent with those applying to the state government – the obligations placed on local government will generally not be higher or lower than those applying to the state government.

1.6.3 Local governments have a responsibility to comply with any applicable legislative, industry or professional requirements to ensure that appropriate standards are maintained for the benefit of the entire community. Wherever possible, local governments should have the ability to tailor regulatory regimes to suit local conditions and interests while still achieving the desired performance-based outcome.

2.3 Representing the Community

2.2.8 Community Engagement

2.2.8.1 Local governments recognise that community engagement is vital to the democratic process and contributes to building balanced healthy communities.

2.2.8.2 Local governments understand that community engagement contains the core elements of information, consultation and participation, which will be applied, where appropriate, to facilitate meaningful community involvement in the decision-making process.

⁴ <https://www.lgaq.asn.au/downloads/file/183/2019-lgaq-policy-statement>

LGAQ Advocacy Action Plan/ Annual Conference Resolutions

The LGAQ is committed to member driven advocacy and working with members to build stronger local government and more resilient local communities.

The Local Government Association of Queensland's Advocacy Action Plan (AAP)⁵ is a roadmap designed to highlight the top policy positions and funding priorities councils believe are critical to ensuring Queensland flourishes and our communities thrive.

2020 Annual Conference resolution: Publication of notices in newspapers

That the LGAQ call on the State Government to review the requirements imposed on local governments regarding the publishing of notices in newspapers and consider alternatives, including publishing notices online.

2021 Annual Conference resolution: Anonymous complaints

That the LGAQ calls on the Office of the Independent Assessor to not deal with or respond to anonymous complaints or compel local government authorities to deal with or respond to anonymous complaints.

2022 Annual Conference resolution: OIA review into family and community obligations

The LGAQ calls on the State Government to direct the Office of the Independent Assessor to review the current conflict of interest laws in relation to the family and community obligations, complexity of community life, and duties that councillors in First Nations councils conduct day to day. Without reasonable scope for councillors to take part in family and community events and cultural commitments, there is no reasonable way that council operations can continue to function.

Relevant 2023 Advocacy Action Plan items to this submission are:

AAP 20 - *Direct the Office of the Independent Assessor to review the current conflict of interest laws in relation to the family and community obligations, complexity of community life and duties that councillors in First Nations councils conduct day to day.*

⁵ <https://www.lgaq.asn.au/downloads/file/549/2023-advocacy-action-plan>